

SETTLEMENT AGREEMENT AND RELEASE

This Settlement Agreement and Release (the "Agreement") is entered into by and among Barry W. Mattingly ("Mattingly") and NextGear Capital, Inc. ("NextGear Capital"), (collectively, the "Parties") and is effective as of the date of the most recent signature set forth below.

RECITALS:

WHEREAS, on or about October 24, 2013, Mattingly filed a Small Claims Complaint against NextGear Capital in the District Small Claims Court of Breckinridge County, Kentucky, under Cause No. 13-S-00039 (the "Lawsuit"), seeking a judgment against NextGear Capital in the amount of \$1,936.00;

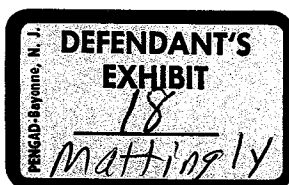
WHEREAS, NextGear Capital denies all liability for the matters which Mattingly has alleged against it in the Lawsuit. NextGear Capital enters this Agreement solely to avoid the expense of litigation;

WHEREAS, on or about September 27, 2013, Mattingly and his wife filed a voluntary petition for bankruptcy in the United States Bankruptcy Court for the Western District of Kentucky, Case No. 13-33839-jal ("Bankruptcy Case"). The Lawsuit was disclosed to the Trustee in the Bankruptcy Case;

WHEREAS, on or about December 30, 2013, Mattingly was granted a discharge of debts under the United States Bankruptcy Code;

AND WHEREAS, Mattingly and NextGear Capital wish to resolve the Lawsuit with prejudice;

NOW, THEREFORE, it is agreed as follows:



1. **PAYMENT.**

NextGear Capital agrees to pay to Mattingly, and Mattingly agrees to accept in full satisfaction of all claims that he raised or could have raised in the Lawsuit, the sum of One Thousand, Nine Hundred Thirty-Six and no/100 Dollars (\$1,936.00) (the "Settlement Amount"). NextGear Capital shall tender the Settlement Amount to Mattingly through a single, lump-sum payment sent to:

Mr. Barry W. Mattingly
[REDACTED]
Hardinsburg, KY 40143

2. **DISMISSAL OF THE LAWSUIT.**

Within four (4) business days after executing this Agreement and receiving the full Settlement Amount, Mattingly shall sign and deliver to NextGear Capital's attorney (Ms. LeAnders L. Jones, Frost Brown Todd LLC, 400 West Market Street, 32nd Floor, Louisville, KY 40202-3363) an Agreed Order of Dismissal in the Lawsuit identical in form to the document attached hereto as Exhibit A.

3. **RELEASE.**

This Agreement constitutes a release by Mattingly, in which Mattingly, on behalf of himself, his current and former agents, representatives, successors in interest, assigns, affiliates, predecessors, parents and subsidiaries, and all those acting on his behalf, RELEASES and FOREVER DISCHARGES NextGear Capital and all its current and former agents, employees, partners, officers, servants, directors, attorneys, affiliates, parents, subsidiaries, predecessors, successors-in-interest and assigns, none of whom admit any liability, from any and all claims, demands, damages, indebtedness, action, and causes of action, known or unknown, on account of, arising out of, or in any way connected with the Lawsuit and the claims that were raised or

could have been raised therein.

4. **MERGER.**

This Agreement represents the entire agreement between the Parties.

5. **CHOICE OF LAW AND FORUM.**

This Agreement shall be governed by, construed by, and enforced in accordance with the laws of the State of Kentucky.

6. **WAIVER INEFFECTIVE.**

No waiver, modification, or amendment of any term, condition, or provision of this Agreement shall be valid or have any force or effect unless made in writing and signed by both Parties to this Agreement.

7. **SEVERABILITY.**

Should any provision of this Agreement be held invalid or illegal, such invalidity or illegality shall not invalidate the whole of this Agreement, but rather the Agreement shall be construed as if it did not contain the invalid or illegal part, and the rights and obligations of the Parties shall be construed and enforced accordingly.

8. **COMPROMISE.**

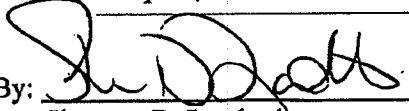
It is understood and agreed that this Agreement is the compromise of disputed claims and that the terms of this Agreement shall not constitute, be construed as, or be deemed to be evidence of an admission or concession of liability by NextGear Capital for any purpose whatsoever.

9. **EXECUTION.**

This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, but all of which, together, shall constitute one and the same instrument.

IN WITNESS WHEREOF, the undersigned agree to all terms of this Agreement.

NextGear Capital, Inc.

By: 
Shannon D. Landreth
Corporate Counsel

1-23-14
DATE

Barry W. Mattingly

By: Barry Mattingly
Barry W. Mattingly

1/4/2014
DATE

EXHIBIT A

BRECKINRIDGE CIRCUIT COURT
DISTRICT SMALL CLAIMS
CIVIL ACTION NO. 13-S-00039

BARRY W. MATTINGLY

PLAINTIFF

v.

NEXTGEAR CAPITAL, INC.

DEFENDANT

AGREED ORDER OF DISMISSAL

Plaintiff Barry W. Mattingly and Defendant NextGear Capital, Inc., being in agreement, and the Court being sufficiently advised, IT IS HEREBY ORDERED that this action as it relates to Plaintiff Barry W. Mattingly's claims against Defendant NextGear Capital, Inc., brought or which could have been brought, in this case by Mr. Mattingly, are DISMISSED in their entirety, with prejudice, with payment of costs having already been resolved by the parties. The hearing set in this matter for February 11, 2014, at 1:00 p.m. is hereby VACATED.

JUDGE, BRECKINRIDGE CIRCUIT
COURT

DATE: _____

TENDERED AND AGREED BY:

Barry W. Mattingly

Hardinsburg, KY 40143

PH: [REDACTED]

Plaintiff pro se

LeAnders L. Jones

FROST BROWN TODD LLC

400 West Market Street, 32nd Floor

Louisville, KY 40202-3363

PH: (502) 589-5400

FAX: (502) 581-1087

Counsel for Defendant NextGear Capital, Inc.



1320 City Center Drive, Suite 100 • Carmel, IN 46032
317.571.3721 • Fax 317.571.3737 • nextgearcapital.com

February 5, 2014

Barry Mattingly

[REDACTED]
Hardinsburg, KY 40143-6831

Via Federal Express

RE: Barry W. Mattingly v. NextGear Capital, Inc.
Small Claims Cause No. 13-S-00039

Dear Barry:

Enclosed is the check totaling \$1,936.00 to settle the above referenced matter. As you and I discussed yesterday, upon your receipt of this check, please visit the Courthouse to sign the necessary papers to dismiss this case and remove the February 11, 2014 hearing from the Court's calendar.

Should you have any questions please do not hesitate to contact me at 317-660-2509.

Sincerely,

NEXTGEAR CAPITAL, INC.

A handwritten signature in black ink that reads "Shannon Landreth". To the right of the signature is a small handwritten mark that appears to be "KJ".

Shannon Landreth
Corporate Counsel

Enclosure

It's time to shift.

MA-000569

Breckinridge County District Court

Small Claims

Case No. 13-S-00039

Barry Mattingly Plaintiff
Nextgear Capital Defendant Vs.

Dismissal Order

Comes the Plaintiff, Barry Mattingly and states that the complaint filed in the small claims division of the Breckinridge County District Court against the Defendant, Nextgear Capital should be dismissed. The case has been settled to the Plaintiff's satisfaction. This 6 day of Feb, 2014.

x Barry Mattingly, Plaintiff

Subscribed and sworn to before me by Barry Mattingly
this 6 day of Feb, 2014. My commission expires:
_____, 20__.

Signature: Anne W. Judd

Title: Deputy Clerk

Approved this 11 day

Feb, 2014

[Signature]
Breckinridge District Judge

